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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.7224 OF 2009**

**Shri Pradeep Indulkar** : **Petitioner.**  
**Versus**  
**State Public Information Officer & ors.** : **Respondents.**

**Ms.Gauri Godse for the Petitioner.**  
**Mr. A B Vagyani, AGP for the Respondent/State.**  
**Mr. Mandar Limary for Respondent No.4.**

**CORAM : P B MAJMUDAR &  
R M SAVANT, JJ.**  
**DATE : 24<sup>th</sup> June 2010**

**P.C.**

1 This Petition filed under Section 226 of the Constitution of India takes exception to the order dated 25<sup>th</sup> February 2009 passed by the State Information Commissioner by which order, the order passed by the Respondent No.4 came to be confirmed.

2 The Petitioner had made an application to the Collector, Thane under the Right to Information Act, 2005 (for brevities sake referred to as "the said Act") seeking information about the method of selection, list and other related information of various publications, news papers and electronic media etc. selected by the Government for publishing advertisement, notices, tenders etc. applicable to the Municipal Corporation. The said application of the Petitioner was

forwarded by the Information Officer of the Collector to the Respondent No.4. The Public Information Officer of the Corporation furnished part of the information to the Petitioner. In so far as part of information which was not furnished, the officer informed the Petitioner that same was not available with the said office. Upon this, the Petitioner preferred an appeal under Section 19(1) of the said Act before the Respondent No.3. The First Appellate Authority passed an order on 28<sup>th</sup> May 2007 dismissing the said Appeal on the ground that it should have been filed before the Collector, Thane. There is some dispute as the manner in which the said Appeal was disposed of by the First Appellate Authority. The Petitioner thereafter filed Second Appeal before the State Information Commissioner which also came to be dismissed on the ground that the First Appeal was not filed before the Corporation. The Petitioner thereafter in the light of the order of the Second Appellate Authority filed First Appeal before the Respondent No.4-Corporation which came to be dismissed on the ground that the said information was not available and whatever was available with the Corporation has already been furnished to the Petitioner. The Petitioner thereafter preferred Second Appeal before the State Information Commissioner which has also been dismissed and the order of the First Appellate Authority has been confirmed.

3           Section 6(3) of the Right to Information Act, 2005 postulates that where an information which is requested to be furnished is held by another public authority or the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer.

4           In the light of the said provision, in our view, the order passed by the First Appellate Authority as confirmed by the State Information Commissioner cannot be justified on the touch stone of the said provision and, therefore, cannot stand scrubbing. If the First Appellate Authority was of the view that the information, which the Petitioner desired to get, was not within its authority, in terms of the said provision, it was obligatory on the part of the said First Appellate Authority to transfer the said application to the appropriate office from where the Petitioner can get the said information.

5           The Petition had appeared before us from time to time and on the last date of hearing we directed the learned AGP to take instructions

as regards the information sought by the Petitioner. The learned AGP fairly stated on the basis of the instructions received that the information which is sought for by the Petitioner being in the nature of a policy decision of the State Government could only be available with the State Government and, if appropriate application is made by the Petitioner to the Director, Public Relation Officer, he could get the said information. In our view, there is no need for the Petitioner to file a fresh application as the law mandates that if the information is not with the office to which the application is made and is with some other office, then the said application is required to be transferred to the concerned office. We, therefore, quash and set aside the order passed by the First Appellate Authority dated 28<sup>th</sup> May 2007 and 31<sup>st</sup> October 2008, the order of the Second Appellate Authority dated 22<sup>nd</sup> September 2008 and the last order dated 25<sup>th</sup> February 2009 and direct that the said application of the Petitioner should be forwarded to the office of the Director, Public Relations Office, Mantralaya, Mumbai. The said office to consider the said application only in so far as the unfurnished information is concerned. and the concerned Public Information Officer of the State Government to dispose of the said application of the Petitioner within a period of four weeks of the receipt of the copy of this order.

6. A grievance is also made by the Petitioner that the office of the Collector, Thane has not appointed State Assistant Public Information Officer as contemplated under Section 5(2) of the said Act. This, according to the Petitioner has resulted in the application filed by the Petitioner not following the defined proper course and the Petitioner being subjected to more from one office to other. In case, such an officer is not appointed by the office of the Collector, Thane, we direct the Collector, Thane to make such appointment within a period of two weeks from date. In case such an officer has already been appointed, the said officer in future should abide the mandate of section 6(3) of the said Act whilst dealing with the applications made to the said office.

7 In the light of the above, no further directions are necessary to be issued. The Petition is disposed of in the above terms.

[R.M.SAVANT, J]

[PB.MAJMUDAR, J]

Bombay High Court